



Joseph Tessari  
Mayor

April 6, 2017

Clint Lorimore  
Mayor Pro Tem

Brandon Plott  
Council Member

Todd Rigby  
Council Member

Adam Rush  
Council Member

Michele Nissen  
City Manager

The Honorable Ben Hueso  
California State Senate, District 40  
State Capitol Building, Room 4035  
Sacramento, CA 95814  
VIA FAX: (916) 651-4940

**RE: SB 649 (Hueso). Wireless and Small Cell Telecommunication Facilities –  
Notice of Opposition (As Amended March 28, 2017)**

Dear Senator Hueso:

The City of Eastvale respectfully opposes your SB 649 related to the permitting of wireless and small cell telecommunications facilities. This proposal unnecessarily and unconstitutionally strips local authority over public property and shuts out public input and local discretion by eliminating consideration of the aesthetic and environmental impacts of “small cells.”

This proposal would prohibit local discretionary review of “small cell” wireless antennas, including equipment collocated on existing structures or located on new “poles, structures, or non-pole structures,” including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that “small cells” be allowed in all zones as a use *by-right*.

As such, the proposal provides a de facto exemption to the California Environmental Quality Act (CEQA) for the installation of such facilities and precludes consideration by the public of the aesthetic, nuisance, and environmental impacts of these facilities, all of which are of particular importance when the proposed location of facilities is within a residential zone.

SB 649’s use of the Federal Communications Commission (FCC) definition of a “small cell” include other “small cell” equipment such as electric meters, concealments, telecom demarcation boxes, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cables, or conduits. While proponents argue that an individual “small cell” has very little impact, the cumulative size specifications of all the small cells and associated equipment far exceed the perceived impacts from a single cell.

The proposal also unconstitutionally preempts local authority by *requiring* local governments to make available sites they own for the installation of a “small cell.” While the city may place “fair and reasonable terms and conditions” on the use of city property, the proposal does not provide the city with any discretion to deny a “small



cell” to be located on city property except for fire department sites. In effect, this measure unconstitutionally gives control of public property to private telecommunications companies, while also precluding local governments from leasing or licensing publicly owned property.

The measure would limit the rent a local government can charge a wireless company to place a small cell on public property to a “cost-based” fee. SB 649 provides favorable treatment to one industry over others who are paying the appropriate market rate for access to city property. The public is entitled to the fair-market value for using their property, and the local governments are the legal owners and landlords renting the property. When local governments rent public property, they are obligated to act in the public’s interest and receive fair-market value. Control of property, including the ability to charge fair rent, is an essential property right.

This bill strips local government of the authority to protect the quality of life of our residents, and to protect public property and the public right-of-way from relatively unconstrained access by small cells.

The City of Eastvale is currently in the process of purchasing all streetlights within its boundaries. SB 649 would substantially impact the City’s ability not to only control “small” telecommunication cells on utility poles, including street light poles, but also impair the City of Eastvale’s ability to lease street light poles for telecommunication companies. This would impact Economic Development opportunities within the City.

Local governments typically encourage new technology into their boundaries because of its potential to dramatically improve the quality of life for their residents. **However, SB 649 goes too far by requiring local governments to approve “small cells” in all land use zones, including residential zones, through a ministerial permit, thereby shutting the public out of decisions that could affect the aesthetics of their community and the quality of their environment.**

For these reasons, the City of Eastvale **opposes** your SB 649.

Respectfully,

Joe Tessari, Mayor  
City of Eastvale

CC: Honorable Sabrina Cervantes, 60th Assembly District  
Honorable Richard Roth, 31st Senate District  
Nidia Bautista, Consultant, Senate Energy, Utilities and Commerce Committee  
Kerry Yoshida, Principal Consultant, Senate Republican Caucus  
Meg Desmond, League of California Cities  
Erin Sasse, League of California Cities, [esasse@cacities.org](mailto:esasse@cacities.org)